



Att. Docket 944-003.041  
Serial No. 09/717,784

AF  
IHW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re application of :  
Heli Heiskari :  
Serial No. 09/717,784 : Examiner: Le V Nguyen  
Filed: November 21, 2000 : Group Art Unit: 2174

For: THREE-DIMENSIONAL ICONS FOR  
GRAPHICAL USER INTERFACE

MAIL STOP APPEAL BRIEFS--PATENTS  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

REPLY BRIEF

(37 CFR 1.193)

Sir:

This is a Reply Brief from an Office Action mailed January 7, 2004, made final, in response to which a Notice of Appeal was filed on April 8, 2004 followed by an Appeal Brief filed on May 27, 2004. This Appeal Brief is being filed within two months of the Examiner's Answer mailed on September 13, 2004 in response to the Appeal Brief.

FILING OF PAPERS AND FEES BY "FIRST CLASS MAIL"  
WITH CERTIFICATE IN ACCORDANCE WITH 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as "First Class Mail" and addressed to the Commissioner for Patents, PO Box 1450, Alexandria VA 22313-1450.

Marie E. Forte

Dated: 11/10/04

In the Examiner's answer mailed on September 13, 2004, in response to the Appeal Brief filed on May 27, 2004 the rejection of all 12 claims is maintained. The appellant disagrees with all arguments made by the Examiner in the Examiner's response which are addressed in the original Appeal Brief. This reply addresses new arguments not presented by the Examiner in the previous office communications and therefore not addressed by the Appellant in the Appeal Brief.

In the Examiner's Answer, the Examiner responded only to a few points made by the Appellant in the Appeal Brief, basically ignoring extensive primary argumentation (see pages 9-12 of the Appeal Brief) presented by the Appellant for distinguishing the present invention from the art relied on by the Examiner. Instead, the Examiner concentrated on secondary issues (e.g., pages 8-9 of the Examiner's response). Some of the arguments made by the Examiner are repeated from the previous office communications (e.g., Office Actions mailed January 7, 2004 and Advisory action mailed on April 5, 2004) which are already rebutted by the Appellant in the Appeal Brief. But even those few points addressed by the Examiner are difficult to understand and contain inaccuracies.

The Examiner emphasizes the role of the erasure button 1011 and the draw button 1012 described by Smith et al. and referring to so-called "Smith et al.'s method" for creating an icon. It is self-evident that any bitmap screen will have such means (e.g., erasure button 1011 and draw button 1012 and others) and so-called "Smith et al.'s method" for creating an icon by relying on such means as described by Smith et al. (col. 7, line 50 through col. 8, line 10) has nothing to do with the present invention, i.e., describing a methodology for designing 3-dimensional icons

and therefore, Smith et al. does not teach the embodiments of independent claims 1, 5 and 9 of the present invention.

The new Figures 1a, 1b and 2 generated and presented by the Examiner are noted by the Appellant. Unfortunately, these new figures do not prove the point which the Examiner is trying to make and are irrelevant to the present invention. Of course images presented in Figures 1 and 2A through 2F of the present invention can be somewhat copied (though a "copy" is always not as good as the original) using the bitmap view 1014 shown by Smith et al. in Figure 10 by using said buttons 1011 and 1012 of Smith et al. That is not the issue here.

In other words, the question is not that the Figures 1 and 2A through 2F of the present invention can be (approximately) reproduced using Smith et al. bitmap of Figure 10. That is obvious because Figures 1 and 2A through 2F are comprised of pixels and therefore naturally any bitmap grid can reproduce these images. The question is whether Smith et al. teaches how to generate images shown in Figures 1 and 2A through 2F of the present invention which is taught by independent claims 1, 5 and 9 of the present invention and further taught by other dependent claims. In that regard the Examiner repeated the same arguments which were extensively rebutted in the Appeal Brief (see pages 9-12 of the Appeal Brief) and did not present any further reasonable explanations on how Smith et al. teaches the embodiments of claims 1, 5 and 9 of the present invention.

The Examiner further argues that the icon 1014 of Smith et al. also provides a depth appearance. The appellant again respectfully disagrees with that assessment. As well known from the history of the visual arts presented to the world by geniuses of the Renaissance era, the 3-dimensional perspective is facilitated by the play of light and shadow. We cannot ask Leonardo da Vinci or Michelangelo to express their opinion about

Smith et al. icon 1014, but it is obvious to the Appellant (and hopefully to any skilled and even not skilled person in the art) that there is nothing 3-dimensional in the icon 1014 of Smith et al. The icon 1014 shows a simple image of a house using strictly dark lines to emphasize its contour in a strictly 2-dimensional way, and no play of light and shadow can be detected anywhere. The Appellant cannot understand where and how the Examiner can see a third dimension (a depth perception) in the icon 1014 of Smith et al. By the way, Smith et al. never mentioned, discussed or even hinted anything about a 3-dimensional perception of the icon 1014 in Figure 10.

For all of the aforementioned reasons, it is respectfully submitted that the rejections of all the claims in the application, namely claims 1-12, are in error, and the rejections should be reversed. Early allowance of all the claims in the application is earnestly solicited.

Respectfully submitted,

*A. Frenkel*

Anatoly Frenkel  
Reg. No. 54,106  
Agent for the Applicant

11/10/04  
Date

WARE, FRESSOLA, VAN DER SLUYS & ADOLPHSON LLP  
755 Main Street, P.O. Box 224  
Monroe, CT 06468-0224

(203) 261-1234

Customer No. 004955